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10/538,936	03/16/2006	Claude Poletti	0579-1093	5993
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YOUNG & THOMPSON			ABRISHAMKAR, KAVEH	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/538,936	<b>Applicant(s)</b> POLETTI, CLAUDE
	<b>Examiner</b> KAVEH ABRISHAMKAR	<b>Art Unit</b> 2431

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 May 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date 5/26/2009

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This action is in response to the amendment filed on May 11, 2009. Claims 1-11 were originally pending. Per the received amendment, claims 12-18 are now added.
2. Claims 1-18 are currently pending consideration.

***Response to Arguments***

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-10 are rejected under 35 U.S.C. 101 based on Supreme Court precedent and recent Federal Circuit decisions, a 35 U.S.C. § 101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *In re Bilski et al*, 88 USPQ 2d 1385 CAFC (2008); *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps are not tied to a particular machine and do not perform a transformation. Thus, the claims are non-statutory.

The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101.

*Note the Board of Patent Appeals Informative Opinion Ex parte Langemyer et al.*

Furthermore, though the Applicant argues that the apparatus is itself a machine, the claim comprises a method of transmitting the actual apparatus, and then the data from the apparatus, but the method itself is *not tied* to the apparatus.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhoads et al. (U.S. Patent Pub. No. US 2002/0122564 A1) in view of Snapp et al. (U.S. Patent Pub. No. US 2003/0069693 A1).

Regarding claim 1, Rhoads discloses:

Inspection apparatus comprising, in a secure casing:  
a central processing unit (paragraph 0101: *a computer*);  
at least one digital audiovisual device configured to make an audiovisual recording (paragraph 0102: *digital camera*);  
a clock configured to provide temporal information (paragraph 0047: *can identity the date/time of data acquisition*);  
a watermarker configured to embed the temporal information provided by said clock in the data stream coming from said audiovisual device such that a moment at which the audiovisual recording is made by said digital audiovisual device is authenticated (paragraphs 0070-0071: *wherein the geovector information, including the time, is embedded in the photograph with a watermark*).

Rhoads does not explicitly teach a compact and secure casing, positionable at a required height and inclination. Snapp discloses a tamper resistant casing which causes the interface to fail if opened (Snapp: paragraph 0062). It would have been obvious to one of ordinary skill in the art to use this tamper resistant casing to make the inspection apparatus tamper resistant (paragraph 0062).

Claim 2 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, wherein said audiovisual device is a camera (paragraph 0102: *a camera*).

Claim 3 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, wherein said audiovisual device (2) is a video camera (paragraph 0102: *a camera used in digital movies*).

Claim 4 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, wherein said audiovisual device (2) is a sound recorder (paragraph 0102: *a camera used in digital movies which record sound*).

Claim 5 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, further comprising:  
a device for measuring the geographic position of the apparatus as geographic information (paragraph 0068: *using GPS to determine the location of the apparatus*),  
wherein said watermark is configured to embed the geographic information provided by said geographic position measuring device in the data stream coming from the

audiovisual device (paragraph 0070-0071: *wherein the location information is embedded in the information (photograph, movie)*).

Claim 6 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 5, wherein said geographic position measuring device is a receiver forming part of the GPS system paragraph 0068: *using GPS to determine the location of the apparatus*).

Claim 7 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, further comprising a distance measuring device (paragraph 0068: *using GPS to determine the location of the apparatus*).

Claim 8 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, further comprising a thermal probe (paragraph 0099: *thermal maps*).

Claim 9 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, further comprising an inclinometer  
(paragraph 0068: *wherein the GPS can measure the altitude/height*).

Claim 10 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, further comprising an electronic compass  
(paragraph 0068: *comprises compass functionality*).

Claim 11 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

Apparatus according to claim 1, characterized in that it further comprises at least one connector enabling an external source of secure data to be attached (paragraph 0070-0071: *wherein the location information is embedded in the information (photograph, movie)*).

Claim 12 is rejected as applied above in rejecting claim 1. Furthermore, Rhoads discloses:

The apparatus according to claim 1, further comprising:  
an electric accumulator (paragraphs 0067-0069: *provides electrical signals*).

Regarding claim 13, Rhoads discloses:

A method of preparing an inspection report comprising:

producing a data stream with at least one digital audiovisual device (paragraph 0102: *digital camera*);

embedding a temporal information provided by a clock comprised in the secure casing in said data stream (paragraphs 0070-0071: *wherein the geovector information, including the time, is embedded in the photograph with a watermark*); and

extracting the data stream out of the casing using a secure method so that the moment at which an audiovisual recording was made is authenticated (paragraphs 0070-0071: *wherein the geovector information, including the time, is embedded in the photograph with a watermark*).

Rhoads does not explicitly teach a compact and secure casing, positionable at a required height and inclination. Snapp discloses a tamper resistant casing which causes the interface to fail if opened (Snapp: paragraph 0062). It would have been obvious to one of ordinary skill in the art to use this tamper resistant casing to make the inspection apparatus tamper resistant (paragraph 0062).

Regarding claim 14, Rhoads discloses:

A method of enabling a certified inspection to be made at a desired location of a territory, said method comprising:

distributing inspection apparatuses over the territory, said inspection apparatuses comprising an audiovisual device and means for authenticating the moment when an audiovisual recording was made (paragraphs 0070-0071: *wherein the geovector information, including the time, is embedded in the photograph with a watermark*);

providing a first person with such an inspection apparatus, said first person triggering the audiovisual device at the desired location (paragraph 0102: *digital camera*); and

transmitting the data recorded by the apparatus to a second person commissioning for the inspection (paragraph 0072: photograph with the watermark may be accessed).

Rhoads does not explicitly state that the record is transmitted via a secure channel. However, it is well-known in the art to transmit articles via a secure channel to avoid interception or corruption of the file. Therefore, it would have been obvious to transmit the file via a secure channel to avoid corruption or interception of the file.

Claim 15 is rejected as applied above in rejecting claim 14. Furthermore, Rhoads discloses:

The method according to claim 14, wherein the inspection apparatuses further comprise means for authenticating the location where an audiovisual recording was made (paragraphs 0070-0071: *wherein the geovector information, including the time, is embedded in the photograph with a watermark*).

Claim 16 is rejected as applied above in rejecting claim 1. Rhoads does not explicitly teach a compact and secure casing, positionable at a required height and inclination. Snapp discloses a tamper resistant casing which causes the interface to fail if opened (Snapp: paragraph 0062). It would have been obvious to one of ordinary skill in the art

to use this tamper resistant casing to make the inspection apparatus tamper resistant (paragraph 0062).

Claim 17 is rejected as applied above in rejecting claim 1. Rhoads does not explicitly teach wherein the casing is rigid and robust. Snapp discloses a tamper resistant casing which causes the interface to fail if opened (Snapp: paragraph 0062). It would have been obvious to one of ordinary skill in the art to use this tamper resistant casing to make the inspection apparatus tamper resistant (paragraph 0062).

Claim 18 is rejected as applied above in rejecting claim 1. Rhoads does not explicitly teach that the casing is tamper proof. Snapp discloses a tamper resistant casing which causes the interface to fail if opened (Snapp: paragraph 0062). It would have been obvious to one of ordinary skill in the art to use this tamper resistant casing to make the inspection apparatus tamper resistant (paragraph 0062).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAVEH ABRISHAMKAR whose telephone number is (571)272-3786. The examiner can normally be reached on Monday thru Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kaveh Abrishamkar/  
Primary Examiner, Art Unit 2431

/K. A./  
07/20/2009  
Primary Examiner, Art Unit 2431